

**PART 82—PETITIONING PROCEDURES FOR TRIBES REORGANIZED
UNDER FEDERAL STATUTE AND OTHER ORGANIZED TRIBES**

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Authority: 5 U.S.C. 301, and 25 U.S.C. 2, 9, 473a, 476, 477, as amended, and 503.

Subpart A---General Information

§ 82.1 What is the purpose of this part?

This part establishes requirements for and validation of petitions requesting the Secretary to call elections as required by the governing documents or charters of incorporation of Indian tribes, the Indian Reorganization Act, 25 U.S.C. 476, as amended, the Oklahoma Indian Welfare Act (OIWA), 25 U.S.C. 503, and the Alaska Native Reorganization Act, (ANRA), 25 U.S.C. 473a.

§ 82.2 What terms do I need to know?

For purposes of this part:

Adult member means a member of an Indian tribe, as defined in this section, who is at least 18 years of age.

Authorizing Official means the Bureau official with delegated Federal authority to authorize a Secretarial election, generally the Regional Director or Director of the Bureau.

Bureau means the Bureau of Indian Affairs, Department of the Interior.

Charter means a charter of incorporation issued, pursuant to Federal statute, by the Authorizing Official to a federally recognized Indian tribe.

Eligible voter means an enrolled tribal member who will be 18 years of age or older on the date of the election.

Eligible voter means a tribal member who will be 18 years of age or older on the date of the Secretarial election and eligible to register to vote in a Secretarial election.

Federal statute means the Indian Reorganization Act, 25 U.S.C. 476, 477, as amended, the Oklahoma Indian Welfare Act, 26 U.S.C. 503, or the Alaska Native Reorganization Act, 25 U.S.C. 473a.

Indian means any person who is a member of those tribes listed or eligible to be listed in the FEDERAL REGISTER pursuant to 25 U.S.C. 479a—1(a); a descendant of a member who was residing within the boundaries of any Indian reservation on June 1, 1934; a person of one-half or more of Indian blood derived from a tribe which still has a relationship with the Federal government; or an Eskimo or other aboriginal person of Alaska.

Indian means: (1) All persons who are members of those tribes listed or eligible to be listed in the FEDERAL REGISTER pursuant to 25 CFR 83.6(b) as recognized by and receiving services from the Bureau of Indian Affairs; provided, that the tribes have not voted to exclude themselves from the Act of June 18, 1934, 43 Stat. 984, as amended; and, (2) any person not a member of one of the listed or eligible to be listed tribes who possesses at least one-half degree of Indian blood.

Indian tribe means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community which is eligible to appear or appears on the list of federally-recognized tribes and tribal entities published in the FEDERAL REGISTER pursuant to 25 U.S.C. 479a--1(a).

Local Bureau Official means the Superintendent, Field Representative, or other official having delegated federal administrative responsibility under this Part.

Member means a person who meets the written criteria of and is enrolled with the Indian tribe. In the absence of written criteria, a member is a person recognized by the local Indian community as belonging to the Indian tribe and participating in that Indian tribe's cultural and/or political processes.

Membership list means a document that contains the names, current addresses, dates of birth, and tribal roll numbers of the members of the tribe.

Official filing date means the date that a petition was received and date stamped by the Local Bureau Official.

Organized tribe means an Indian tribe that has adopted a constitution under exclusive tribal authority, rather than a Federal statute.

Petition means a written request for a Secretarial election under 25 CFR Part 81.

Registered voter means an eligible voter who is registered to vote in the Secretarial election.

Recognized governing body means the Indian tribe's governing body recognized by the Bureau for the purposes of government-to-government relations.

Reorganized tribe means an Indian tribe whose members have adopted a constitution pursuant to a Federal statute.

Reservation means any area of land reserved by treaty, statute, or Executive Order, or otherwise set aside for Indians to use or occupy under the Federal Government's supervision.

Residing means physically living on the reservation.

Secretarial election (as compared to a tribal election that is conducted by the tribe under exclusive tribal authority) means an election conducted under this Part and pursuant to a Federal statute or tribal constitution (see *Cheyenne River Sioux Tribe v. Andrus*, 566 F. 2d 1085 (8th Cir., 1977), cert. denied 439 U.S. 820 (1978)).

Secretary means the Secretary of the Interior or authorized representative exercising authority delegated by the Secretary.

Spokesperson for the petitioners means an eligible voter of the tribe who initiates a petition or who is designated by tribal members who are eligible voters to speak on their behalf.

Tribal government means recognized governing body.

§ 82.3 Information collection.

The information collection requirement contained in this part will be approved by the Office of Management and Budget under the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d), and assigned clearance number 1076-XXXX. Information is collected when individuals or tribes submit petitions to organize or reorganize under Federal statute.

§ 82.4 Is technical assistance available?

Yes. Local Bureau personnel provide technical assistance to tribal governments in the drafting constitutions, bylaws, charters of incorporation, amendments and revocations, as well as the Secretarial election process.

Subpart B---Petitions

§ 82.5 Who must follow these procedures?

(a) An Indian tribe whose constitution or charter of incorporation requires a petition to the Secretary requesting an election under 25 CFR Part 81 to--

- (1) Amend or revise the constitution or charter of incorporation; or
- (2) Take any other action authorized by the constitution or charter of incorporation.

(b) An adult tribal member who is an eligible voter of an Indian tribe and whose constitution or charter of incorporation provides a process for an individual to petition the Secretary to authorize an election under 25 CFR Part 81.

§ 82.6 Who may initiate and circulate a petition?

A tribal member authorized to sign a petition under § 82.8 may initiate a petition, seek signatures for the petition, and serve as spokesperson for the petitioners.

§ 82.7 How do I format the petition?

A petition should have as many pages as necessary to hold all the signatures. At minimum, each page of the petition must contain--

- (a) A summary of the purpose of the petition;
- (b) The articles to be amended
- (c) The proposed language to amend, revise or revoke; and
- (d) Labeled lines for each signer to provide a printed name, mailing address, signature, and date of signature;

§ 82.8 Who may sign a petition?

Any duly enrolled member of a reorganized tribe or tribe seeking reorganization, who is eligible to vote in an election conducted under 25 CFR Part 81.

82.9 How are signatures to the petition authenticated?

- (a) Each page of the petition must contain—
 - (1) An authenticating statement that has been signed before a notary public and received the notarization of that official; or
 - (2) The notarized signatures of each signer to the petition.

(b) An authenticating statement must provide that the person signing it believes the individuals that have signed the petition are eligible voters and that the information provided by the signers is correct. For example:

Each signature was made on the date entered and by the individual whose name appears on the petition. To the best of my knowledge, the individual signing the petition is an eligible voter

§ 82.10 How many signatures do I need for a petition?

(a) The spokesperson for the petitioners must request a determination of the required number of signatures needed for a petition from the Local Bureau Official.

(1) The Local Bureau Official must consult the---

(i) Tribal governing body to determine the current number of eligible tribal voters; and

(ii) The tribe's governing documents to determine the percentage of tribal members who must sign a petition.

(2) If the tribe is not reorganized under Federal statute, the petition for must be signed by at least sixty percent (60%) of the adult tribal members who are eligible to vote in an election conducted by the Secretary pursuant to 25 CFR Part 81.

(b) The Local Bureau Official will send a letter to the spokesperson for the petitioners confirming the number of signatures required for the petition. The letter will contain a notice that no signatures may be added or deleted after the petition is officially filed with the Department.

§ 82.11 When must the petition be filed?

The petition must be filed within 180 days of the date of the earliest signature to the petition.

§ 82.12 How is a petition filed?

(a) The spokesperson must present the Local Bureau Official with the petition, including all original signature pages.

(b) The Local Bureau Official must, within 7 days of the official filing date—

(1) Date stamp each page of the petition on the day of receipt to record the Official Filing Date;

(2) Certify no signature will be added to or withdrawn from the petition after the official filing date;

(3) Provide the spokesperson for the petitioners a written receipt of the petition, including the exact number of signatures and the Official Filing Date; and

(4) Mail a copy of the written receipt and summary of petition to the recognized tribal governing body.

§ 82.13 Are the petition and signatures available for review?

Yes. When the petition is officially filed, the Local Bureau Official must reproduce the petition, including all of its signature pages. The reproduction of the petition and signature pages must be publicly posted at the local Bureau office for 30 days following the Official Filing Date.

§ 82.14 How are signatures to the petition challenged?

- (a) Any eligible voter may challenge the signatures appearing on the petition.
- (b) The written challenge must be submitted to the Local Bureau Official within 30 days of the Official Filing Date of the petition. The challenge must--
 - (1) Identify the page and line on which a signature appears; and
 - (2) Provide documentation supporting a challenge the signature was forged; made by an ineligible or unqualified voter; placed on an inconsistent or improperly formatted signature page; or not properly authenticated or notarized.

§ 82.15 How is the petition validated by the local Bureau Official?

Within 45 calendar days of the Official Filing Date, the Local Bureau Official must transmit the original petition and all signatures and challenges to the Authorizing Official. The Local Bureau Official must---

- (a) Confirm the petition has the required number of signatures;
- (b) Indicate any signatures appearing more than once and include only one in the count;
- (c) Make recommendations regarding any challenge to the validity of signatures based upon the documentation provided by the challenger; and
- (d) Verify the petitioning procedures complied with this Part.

§ 82.16 When does the Authorizing Official determine the petition is valid or invalid?

- (a) Within 60 calendar days of the official filing date, the Authorizing Official must--

- (1) Determine whether the petition complies with the requirements of this Part;
 - (2) Inform, in writing, the spokesperson for the petitioners and the recognized tribal governing body whether the petition is valid and the basis for that determination;
and
- (b) The decision of the Authorizing Official is final for the Department.

§ 82.17 May the same petition be used for more than one Secretarial election?

No. Each request for a Secretarial election requires a new petition.